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4 Attorneys for Plaintiff
5 Landmark Home Mortgage, Inc.

6 UNITED STATES DISTRICT COURT
7
8 NORTHERN DISTRICT OF CALIFORNIA
9
10 SAN JOSE DIVISION

11 Landmark Home Mortgage, Inc.,

Action No. 07-CV-04654-HRL

12 Plaintiff,

Proof of Service of Summons on Bertha
Moreno


13 vs.

14 Guillermo Flores, Alvin Silbernagel, Atlas
Financial Services, Inc. dba Atlas
Financial Services and Atlas Realty,
15 Bertha Moreno, Jose Arrellano, Robert
W. Peterson, individually and dba
16 Peterson Appraisal Group, and Does 1
through 50,

17 Defendants.
18 _____/

19 See attached.
20

21 Dated: September 25, 2007


22 Richard Swenson
23 Attorneys for Plaintiff
Landmark Home Mortgage, Inc.

24 Land-Flo\Pld\POScvrBM.925
25
26
27
28

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address): William C. Dresser, SB 104375 <hr/> 4 North Second Street, Suite 1230 San Jose, CA 95113-1307						FOR COURT USE ONLY	
TELEPHONE NO.: 408-279-7529 FAX NO. (Optional): 408-298-3306 E-MAIL ADDRESS (Optional): ATTORNEY FOR (Name):							
SUPERIOR COURT OF CALIFORNIA, COUNTY OF Santa Clara STREET ADDRESS: 191 North First Street MAILING ADDRESS: CITY AND ZIP CODE: San Jose, CA 95113 BRANCH NAME: Civil Division							
PLAINTIFF/PETITIONER: Landmark Home Mortgage, Inc.						CASE NUMBER:	
DEFENDANT/RESPONDENT: Guillermo Flores, Alvin Silbernagel, Atlas Financial, et al						1-07-CV-090658 <i>FED CT# 07-CV-04654-HRL</i>	
PROOF OF SERVICE OF SUMMONS						Ref. No. or File No.:	

(Separate proof of service is required for each party served.)

1. At the time of service I was at least 18 years of age and not a party to this action.
2. I served copies of:
- a. ☒ summons
 - b. ☒ complaint
 - c. ☐ Alternative Dispute Resolution (ADR) package
 - d. ☒ Civil Case Cover Sheet (*served in complex cases only*)
 - e. ☐ cross-complaint
 - f. ☒ other (*specify documents*):
Statement of Damages, Notice
3. a. Party served (specify name of party as shown on documents served):
Bertha Moreno
- b. ☐ Person (other than the party in item 3a) served on behalf of an entity or as an authorized agent (and not a person under item 5b on whom substituted service was made) (*specify name and relationship to the party named in item 3a*):
4. Address where the party was served:
1653 Tierra Buena Drive, San Jose, CA 95121
5. I served the party (check proper box)
- a. ☐ by personal service. I personally delivered the documents listed in item 2 to the party or person authorized to receive service of process for the party (1) on (date): _____ (2) at (time): _____
 - b. ☒ by substituted service. On (date): 8/6/07 at (time): 5:25 p.m. I left the documents listed in item 2 with or in the presence of (name and title or relationship to person indicated in item 3): Bertha Hernandez, co-resident
- (1) ☐ (business) a person at least 18 years of age apparently in charge at the office or usual place of business of the person to be served. I informed him or her of the general nature of the papers.
- (2) ☒ (home) a competent member of the household (at least 18 years of age) at the dwelling house or usual place of abode of the party. I informed him or her of the general nature of the papers.
- (3) ☐ (**physical address unknown**) a person at least 18 years of age apparently in charge at the usual mailing address of the person to be served, other than a United States Postal Service post office box. I informed him or her of the general nature of the papers.
- (4) ☒ I thereafter mailed (by first-class, postage prepaid) copies of the documents to the person to be served at the place where the copies were left (Code Civ. Proc., § 415.20). I mailed the documents on (date): _____ from (city): _____ or ☒ a declaration of mailing is attached.
- (5) ☒ I attach a **declaration of diligence** stating actions taken first to attempt personal service.

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DEFENDANT/RESPONDENT: Guillermo Flores, Alvin Silbernagel, et al	

5. c. ☐ **by mail and acknowledgment of receipt of service.** I mailed the documents listed in item 2 to the party, to the address shown in item 4, by first-class mail, postage prepaid,
- (1) on (date): (2) from (city):
- (3) ☐ with two copies of the *Notice and Acknowledgment of Receipt* and a postage-paid return envelope addressed to me. (*Attach completed Notice and Acknowledgement of Receipt.*) (Code Civ. Proc., § 415.30.)
- (4) ☐ to an address outside California with return receipt requested. (Code Civ. Proc., § 415.40.)
- d. ☐ **by other means** (*specify means of service and authorizing code section*):

☐ Additional page describing service is attached.

6. The "Notice to the Person Served" (on the summons) was completed as follows:

- a. ☒ as an individual defendant.
- b. ☐ as the person sued under the fictitious name of (*specify*):
- c. ☐ as occupant.
- d. ☐ On behalf of (*specify*):

under the following Code of Civil Procedure section:

- | | |
|---|---|
| <input type="checkbox"/> 416.10 (corporation) | <input type="checkbox"/> 415.95 (business organization, form unknown) |
| <input type="checkbox"/> 416.20 (defunct corporation) | <input type="checkbox"/> 416.60 (minor) |
| <input type="checkbox"/> 416.30 (joint stock company/association) | <input type="checkbox"/> 416.70 (ward or conservatee) |
| <input type="checkbox"/> 416.40 (association or partnership) | <input type="checkbox"/> 416.90 (authorized person) |
| <input type="checkbox"/> 416.50 (public entity) | <input type="checkbox"/> 415.46 (occupant) |
| | <input type="checkbox"/> other: |

7. **Person who served papers**

- a. Name: Donna McLean
- b. Address: 4 North Second Street, Suite 1230, San Jose, CA 95113
- c. Telephone number: 408\279-7529
- d. **The fee** for service was: \$
- e. I am:

- (1) ☒ not a registered California process server.
- (2) ☐ exempt from registration under Business and Professions Code section 22350(b).
- (3) ☐ a registered California process server:
- (i) ☐ owner ☐ employee ☐ independent contractor.
- (ii) Registration No.:
- (iii) County:

8. ☒ **I declare** under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

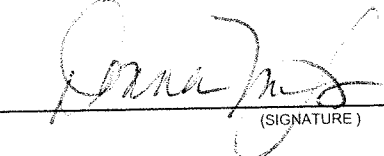
or

9. ☐ **I am a California sheriff or marshal** and I certify that the foregoing is true and correct.

Date: 9/25/07

Donna McLean

(NAME OF PERSON WHO SERVED PAPERS/SHERIFF OR MARSHAL)


(SIGNATURE)

1 William C. Dresser #104375
Richard Swenson #221586
2 4 North Second Street, Suite 1230
San Jose, CA 95113-1307
3 Tel: 408\279-7529
Fax: 408\298-3306

4 Attorneys for Plaintiff
5 Landmark Home Mortgage, Inc.

6
7 IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA
8 COUNTY OF SANTA CLARA

9 Landmark Home Mortgage, Inc.,

No. 1-07-CV-090658

10 Plaintiff,

Declaration of Donna McLean Re:
Service of Summons, First Amended
Complaint, Statement of Damages Upon
Bertha Moreno

11 vs.

12 Guillermo Flores, Atlas Financial
Services, and Does 1 through 50,

13 Defendants.

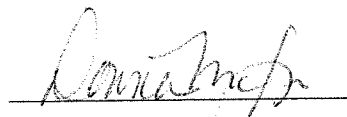
14 /

15 I, DONNA MCLEAN, declare:

16 On August 6, 2007, at approximately 5:25 p.m., I arrived at the known residence of
17 Bertha Moreno, which is 1653 Tierra Buena Drive, San Jose, California, 95121. When I
18 approached the door I heard an adult female voice speaking to someone else. I knocked
19 on the door. A young girl, approximate age 11 years old, answered the door. I asked for
20 Bertha Moreno. She stated to me "she does not live here." I asked her if an adult was at
21 the home. She told me, "yes, my mother is home." I asked if I could speak with her. She
22 told me, "she is in the shower." I told her I would wait. I waited on the front porch for
23 approximately 5 to 6 minutes. At that time, a woman, approximate age 30 to 35 came to
24 the door. I told her I was looking for Bertha Moreno. She told me, "she doesn't live here."
25 I then asked her what her name was and she told me her name was Bertha Hernandez.
26 She asked me if I wanted her to call Bertha Moreno. I told her yes. I then took a photo of
27 her as she turned to leave. She left for approximately 3 to 4 minutes and returned. I told
28

1 her that the residence is listed as owner occupied and does she know where I could
2 locate Bertha Moreno. She then told me that "she lives here." I told her that "you just
3 told me she doesn't live here." She then told me, "she does live here." At that point,
4 another woman pulled up in a vehicle, with a hispanic male. They exited the vehicle and
5 immediately approached me. I asked her if she was Bertha Moreno. She said, "no, who
6 are you?" I told her that I was from a law firm and that I had some documents for Ms.
7 Moreno. She told me, "she doesn't live here." I told her that I just went through this with
8 Ms. Hernandez. They both then spoke to each other in Spanish. Then Ms. Hernandez
9 told me that, "she does live here." Then, the male took 2 steps towards me and said
10 something in Spanish to Bertha Hernandez. I asked the other woman what her name
11 was and she told me that her name was Graciela Moreno. I then took a photo of Ms.
12 Graciela Moreno. The male took one more step towards me and I asked where Bertha
13 Moreno was. Bertha Hernandez told me that she would be there at 8:00 p.m. and that I
14 could come back. At that point, they all started speaking in Spanish to each other. I
15 stated to all of them that I would be calling the police department for a civil standby so
16 that they could help me get to the bottom of this situation. As soon as I finished the
17 statement, the male immediately left the premises. I then told Ms. Hernandez that the
18 documents that I had were for Bertha Moreno. I was substitute serving the documents on
19 her as an adult who lives in the home, and that we would serve another copy via US mail
20 to Bertha Moreno at that residence. I then left the premises at approximately 5:51 p.m.

21 Dated: August 6, 2007

22 
23 _____
24 Donna McLean

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26 Land-Flo\mem\DeclDon.924
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Case: 1-07-CV-090658
Action No.:

PROOF OF SERVICE BY MAIL

(Certification/Declaration under Penalty of Perjury
Code of Civil Procedure Sections 1005, 1012, 1013, 1013a, 2015.5)

I am employed in the County of Santa Clara, California. I am over the age of 18 years and am not a party to the within action. My business address is:


Law Offices of William C. Dresser
4 North Second Street, Suite 1230
San Jose, CA 95113-1307
(408) 279-7529

On the below referenced date I served the within: First Amended Summons, Statement of Damages, Civil Lawsuit Notice, Civil Case Cover Sheet, and Complaint.

on interested parties in said action, by placing a true and correct copy thereof, enclosed in a sealed envelope with postage thereon fully prepaid, in the United States Mail, at San Jose, California, addressed as follows:

Bertha Moreno
1653 Tierra Buena Dr
San Jose, CA 95121

I declare under penalty of perjury that the foregoing is true and correct and that this Declaration was executed by me on August 7, 2007, at San Jose, California.


Nikolaus W. Reed

Land-Flo\pld\BMPoS.807